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June 24, 2021

**VIA ECF AND FEDERAL EXPRESS**

Hon. James L. Garrity, Jr.  
United States Bankruptcy Court  
Southern District of New York  
One Bowling Green, Courtroom 601  
New York, NY 10004

Re: *In re Orly Genger*, Chapter 7 Case No. 19-13895

Dear Judge Garrity:

We represent Michael Oldner, the trustee of the Orly Genger 1993 Trust and write pursuant to the Court's memo endorsement permitting the filing of objections and counter-designations to the designations from Mr. Oldner's deposition. (ECF No. 468). We are enclosing objections and counter-designations made on behalf of Mr. Oldner (in his capacity as trustee of the Orly Genger 1993 Trust) and Sagi Genger (who joins in these objections and counter-designations).

Overall, we note Debtor's designations largely relate to Mr. Oldner's (alleged improper) administration of the Orly Trust. Should the Court approve the proposed sale of the fiduciary duty derivative claims, as sought in the Trustee's Rule 9019 motion, this testimony may become relevant. But it does not have any apparent relation to the pending motion to dismiss. Next, a lengthy section of the designations relates to a detailed examination of the joinder to the already-decided motion to dismiss or transfer to New York, which was filed in Texas almost two years ago. As the Court is aware, the Orly Trust did not join in the currently-pending motion to dismiss.

Thank you for Your Honor's consideration in this matter.

Respectfully,

/s/ *Adam Pollock*

Adam Pollock

Enclosures

(Two single-sided copies of letter, and its enclosures, will be sent to via Federal Express.)

# Exhibit A

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re Orly Genger,

Debtor.

Chapter 7

Case No. 19-13895-JLG

**OBJECTIONS AND COUNTER-DESIGNATIONS TO  
DEBTOR'S DEPOSITION DESIGNATIONS OF MICHAEL OLDNER**

The following objections and counter-designations are made on behalf of Michael Oldner (in his capacity as trustee of the Orly Genger 1993 Trust) and Sagi Genger (who joins in these objections and counter-designations).

Mr. Oldner and Mr. Genger generally object to the Debtor's deposition designations of Michael Oldner's depositions as irrelevant to the pending motion to dismiss, because they concern Mr. Oldner's performance and fitness as trustee of the Orly Genger 1993 Trust, rather than the conduct that forms the basis of the motion to dismiss. Mr. Oldner and Mr. Genger further generally object to the lengthy section of the designations regarding the joinder to the already-decided motion to dismiss or transfer to New York, which was filed in Texas almost two years ago.

**I. Debtor's Deposition Designations –  
Michael Oldner's June 25, 2020 Deposition**

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
7:16	7:20		
11:17	11:21		Errata 11:20
12:20	12:20		12:21 – 12:23; 15:7 – 15:11
35:4	35:7		
43:2	43:3		
44:19	44:21		
45:1	45:2		
45:9	45:21		

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
46:24	47:3		
48:6	48:17		
48:22	48:23		48:24 – 49:18
54:13	54:22		
54:24	54:24		
55:22	55:25		56:12 – 56:18
56:5	56:5		
57:1	57:7		
57:10	57:12		
60:19	60:24		
61:10	61:14		
61:17	61:18		
61:21	61:23		
62:10	62:13		
69:15	69:20		
70:19	70:23		50:6 – 50:16; 50:24 – 51:11
72:1	72:5	Seeks speculation	
72:8	72:9	Seeks speculation	
72:11	72:14	Seeks speculation	
77:9	77:11		
77:16	77:16		
79:6	79:8	Relevance; seeks legal conclusion	

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80:10	80:17	Relevance; seeks legal conclusion	
81:15	81:16		
81:20	82:6		12:21 – 12:23; 15:7 – 15:11
82:14	82:14		82:15–82:17; 82:21–82:24; 83:1
83:20	83:23		
87:25	88:4		Errata 88:4
88:5	88:20		
89:16	90:16		Errata 90:8
92:24	93:9		93:14 – 93:25
94:1	94:9		Errata 94:7
95:11	96:5		96:6 – 96:8
100:21	100:23		
101:24	102:3		50:6 – 50:16; 50:24 – 51:11
102:7	102:13		
103:17	104:16		104:20 – 105:18
105:19	105:25		106:1 – 106:3
107:6	107:8		106:20 – 107:5
111:9	111:12		

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
111:19	111:24		114:3 — 114:20; 159:14 — 159:24; 160:13 — 160:22  Errata 111:21, 111:24
112:5	112:10		114:3 — 114:20; 159:14 — 159:24; 160:13 — 160:22
113:20	113:21		Errata 113:21
115:8	115:13		116:6 – 117:8  Errata 115:10
117:4	117:22		
119:7	119:11		
119:14	119:15		
119:20	119:22		
129:1	129:8		
129:25	130:2		
131:1	131:2		
131:7	131:18		
132:6	132:9		
151:9	151:14		106:1 – 106:3
157:25	159:1		
159:6	159:9		
159:14	159:18		
163:10	164:10		Errata 163:22 – 163:25

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
169:3	169:10	Relevance	50:6 – 50:16; 50:24 – 51:11
169:15	169:20		
188:12	188:18	Relevance	50:6 – 50:16; 50:24 – 51:11
189:7	189:17		
192:16	192:20		196:24 – 197:3
195:14	195:25		196:24 – 197:3
196:12	196:16		196:24 – 197:3
199:4	199:22	Relevance	575:22 – 576:9; 586:10 – 586:13
202:17	202:21	Relevance	50:6 – 50:16; 50:24 – 51:11; 199:9 – 199:10; 575:22 – 576:9; 586:10 – 586:13.
202:24	203:1	Relevance	50:6 – 50:16; 50:24 – 51:11; 199:9 – 199:10; 575:22 – 576:9; 586:10 – 586:13.  Errata 202:25
232:15	232:17		
233:2	233:6		
233:23	234:9		577:14 – 577:18  763:15 – 763:17
234:14	235:6		
235:11	235:16		

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
262:5	262:10		
262:15	262:20		264:1 – 264:3
283:15	283:18		
284:1	284:7		
284:10	284:19		
284:23	284:25	Calls for speculation	
285:4	285:7	Calls for speculation	
285:9	285:10	Calls for speculation	
287:1	287:4		
287:8	287:8		
289:15	289:16		
298:21	298:24		
299:1	299:13		
300:5	300:19		Errata 300:12 – 300:13
302:24	303:2		
303:4	304:4		
304:7	305:2		
309:2	309:4		
309:7	309:23		
310:3	310:12		Errata 310:7 – 310:9
310:16	310:17		310:21–24
317:4	317:10		
318:1	318:16		



<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
319:4	319:8		
319:19	319:20		
320:23	321:3		
359:18	359:23		
360:1	360:10		
367:21	368:9		

**II. Debtor's Deposition Designations –  
Michael Oldner's March 25, 2021 Deposition**

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
413:25	414:4		
415:1	415:10		
416:12	416:14		
420:20	421:10		12:21 – 12:23; 15:7 – 15:11
422:19	423:9	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
424:5	424:7	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
424:14	424:24	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
426:23	427:7		

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
430:6	430:8		
432:11	432:21		Errata 432:20 – 432:21
434:3	434:8		Errata 434:4
434:18	435:9		
436:18	437:13	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
438:10	439:2	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
439:18	440:6	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
442:6	442:16	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
443:12	443:24		
444:3	444:8		444:1 – 444:2
444:14	444:16		
446:18	447:7		
449:4	449:8		
449:10	450:2		450:3 – 450:7
451:25	452:21		
454:1	455:9		

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
461:11	461:13		450:3 – 450:7
462:8	462:13		
462:15	462:23		
463:1	463:9		
463:24	464:2		
473:3	473:6		
474:6	474:17		
475:5	475:17		
476:7	476:17		
477:21	478:5		
478:7	478:9		
481:14	481:20		
485:22	485:25		
486:4	486:4		486:1 — 486:3
490:17	492:14	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
524:11	524:16		
524:22	525:5		
525:8	525:11		525:15–18

**III. Debtor's Deposition Designations –  
Michael Oldner's May 19, 2021 Deposition**

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
546:19	546:23		
553:4	553:20		
554:1	554:3		
556:3	556:4		
557:3	557:9		
558:7	558:12		
559:1	559:21		558:18 – 558:22
560:1	560:1		
560:13	560:17		
561:5	561:9	Seeks legal conclusion	
561:13	561:18	Seeks legal conclusion	
562:11	563:11		
567:6	567:12		
567:24	568:2		
573:5	573:9		
573:21	573:25		
574:7	574:16		
574:21	574:24		
575:7	575:9		
575:19	576:9		
577:1	577:18		

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
577:22	578:8		575:22 – 576:9; 586:10 – 586:13
579:3	579:11		
580:12	580:13		
580:15	580:15		
580:24	580:25		
581:20	581:21		
581:23	581:23		
581:25	582:1		
586:23	586:24		
587:2	587:2		
589:23	590:2		
590:11	590:13		
591:5	591:8		
591:24	592:13		
596:25	597:12		
597:19	598:2		
600:16	600:19		
612:18	612:22	Outside the scope of questions permitted to be re-posed (Exhibit A)	
613:11	613:13	Outside the scope of questions permitted to be re-posed (Exhibit A)	

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
613:17	613:18	Outside the scope of questions permitted to be re-posed (Exhibit A)	
613:20	613:20	Outside the scope of questions permitted to be re-posed (Exhibit A)	
616:11	616:12	Outside the scope of questions permitted to be re-posed (Exhibit A)	
616:14	616:14	Outside the scope of questions permitted to be re-posed (Exhibit A)	
617:6	618:5		
618:10	618:12		
618:18	618:23		
619:2	619:2		
619:13	619:19		
619:22	620:1		
622:3	622:5		
622:7	622:7		
622:19	622:24		
630:21	630:24		
631:2	631:7		
631:11	631:16		
631:19	631:24		
632:7	632:13		

Beginning Page:Line	Ending Page:Line	Objection	Counter-Designations
639:21	640:3		
640:10	640:12	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
640:17	640:24	<p>Misstates the document, as omits the remainder of the complete sentence: “or, in the alternative, transferring the case to the United States Bankruptcy Court for the Southern District of New York.”</p> <p>Outside the scope of questions permitted to be re-posed (Exhibit B)</p> <p>Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue</p>	416:25 – 417:3
641:8	641:14	<p>Outside the scope of questions permitted to be re-posed (Exhibit B)</p> <p>Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue</p>	
641:18	641:18	<p>Outside the scope of questions permitted to be re-posed (Exhibit B)</p> <p>Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue</p>	

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
643:3	643:5	Outside the scope of questions permitted to be re-posed (Exhibit B)  Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	648:23 – 648:24;  649:4 – 649:5
652:4	652:7	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
652:11	652:11	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
652:13	652:13	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
655:14	656:2	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
657:9	657:21	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
657:24	658:11	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	658:16 – 658:18; 659:5 – 659:8; 664:13 – 665:16



Beginning Page:Line	Ending Page:Line	Objection	Counter-Designations
662:3	662:5	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue  Asked and answered	658:16 – 658:18; 659:5 – 659:8; 664:13 – 665:16
662:10	662:15	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	658:16 – 658:18; 659:5 – 659:8; 664:13 – 665:16
663:24	664:12	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
664:20	665:16	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
675:5	675:10	Form  Misstates prior testimony  Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	648:23 – 648:24;  649:4 – 649:5
675:14	675:15		
675:24	676:3		
676:6	676:6		
677:11	677:15		
679:25	680:16	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	

Beginning Page:Line	Ending Page:Line	Objection	Counter-Designations
680:22	681:10		
682:1	682:14	Asked and answered	
685:25	685:25		
686:3	686:8		
692:10	693:16	Outside the scope of questions permitted to be re-posed (Exhibit B)	
693:19	693:19	Outside the scope of questions permitted to be re-posed (Exhibit B)	
701:7	701:14	Outside the scope of questions permitted to be re-posed (Exhibit B)	
709:10	709:21		
711:25	712:3	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	710:12 – 711:4
713:19	713:22	Badgering — same question asked at least <i>fourteen times</i> at [1] 710:24, [2] 711:8, [3] 712:1, [4] 712:6, [5] 712:11, [6] 713:12, [7] 714:9, [8] 714:15, [9] 714:19, [10] 715:2, [11] 715:6, [12] 715:17, [13] 716:4, [14] 716:16  Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
714:2	714:4	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
720:19	720:22	Outside the scope of questions permitted to be re-posed (Exhibit B)	
720:25	721:2	Outside the scope of questions permitted to be re-posed (Exhibit B)	
721:16	721:20	Outside the scope of questions permitted to be re-posed (Exhibit B)	
721:25	721:25	Outside the scope of questions permitted to be re-posed (Exhibit B)	
726:19	727:10	Form, mischaracterizes document	
727:21	728:3	Form, mischaracterizes document	
728:7	728:10		
731:18	731:20	Relevance, as joinder for prior (TX) motion to dismiss or transfer is not presently at issue	
732:6	733:1		Errata 732:18
736:2	736:14		
737:21	738:8		733:11 – 733:15
738:18	739:9	Form	740:12 – 740:19 Errata 739:4

<b>Beginning Page:Line</b>	<b>Ending Page:Line</b>	<b>Objection</b>	<b>Counter-Designations</b>
741:12	741:20		
742:3	742:12	Form	
742:22	742:22	Form	
744:3	744:5	Legal conclusion	
744:8	744:8	Legal conclusion	
751:11	751:14	Asked and answered	
751:17	751:17	Asked and answered	
752:23	753:1		
756:2	756:11	Outside the scope of questions permitted to be re-posed (Exhibit B)	
757:8	757:14	Outside the scope of questions permitted to be re-posed (Exhibit B)	
760:5	760:11		
763:15	764:3	Outside the scope of questions permitted to be re-posed (Exhibit B)	
765:13	765:15	Outside the scope of questions permitted to be re-posed (Exhibit B)	
766:14	766:20	Outside the scope of questions permitted to be re-posed (Exhibit B)	
767:3	767:9		
767:14	768:2		
769:10	769:12	Form, mischaracterize testimony	768:22–769:6

Beginning Page:Line	Ending Page:Line	Objection	Counter-Designations
769:19	769:20		
772:16	772:20		
776:17	776:21		
776:25	777:10	Outside the scope of questions permitted to be re-posed (Exhibit B)	
780:20	780:25	Outside the scope of questions permitted to be re-posed (Exhibit B)	
781:7	781:14	Mischaracterizes testimony	
782:6	782:21		
784:16	785:1		
785:6	785:16		
785:25	786:7		
790:3	790:12		
790:15	790:20		

Dated: June 24, 2021

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